IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2188 OF 2007

Swapna Dilip Chavan ....Petitioner

V/s.

G.D. Tadwalkar, Judge Family Court, and another ....Respondents

Mr.V.Z. Kankaria for the Petitioner.

CORAM : F.I. REBELLO &
R.M. SAVANT, JJ.
DATED : 3RD APRIL, 2007.

P.C. :

1. We have heard the learned counsel for the Petitioner extensively. The Petitioner was married with Dilip Chavan. During the subsistence of the marriage, she married another person by name Sunil M. Amrute. Her contention was that as Dilip Chavan left for U.S.A. and had not returned, she contracted the second marriage.

. Sunil Amrute in the year 2001 filed a Petition for nullity of marriage against the Petitioner. That Petition was allowed by the Family Court. After Dilip Chavan came back from U.S.A., he filed a Petition for divorce against the Petitioner

herein being Petition No.A-799/2005. The Petitioner herein has also filed a Petition being Petition No.B-22/2003 against Dilip Chavan for an injunction. It was her contention that she was residing in the house and and she apprehended that she would be dispossessed. The learned Family Court allowed the Petition filed by Dilip Chavan and held that as the Petitioner was living in adultery and hence Late Dilip Chavan was entitled for a decree of divorce.

2. In so far as the Petition filed by the Petitioner herein is concerned, it is set out in paragraph 1 that the Petitioner after decree for nullity was obtained by Sunil Amrute started pretending to be wife of Dilip Chavan tried to enter into the house of Dilip Chavan claiming to be in possession thereof. The learned Family Court after considering the contentions, held that she would have no right to sue under Section 7(1)(b) of the Family Courts Act, 1984 and accordingly dismissed the said Petition.

3. The dismissal of the Petition is challenged by this Writ Petition. Meanwhile Dilip expired. In our opinion if the Petitioner is aggrieved the remedy is by way of Appeal and if Appeal is not maintainable

by other appropriate remedy. At any rate this would not be a fit case for us to exercise our extra-ordinary jurisdiction under Article 226 of the Constitution of India. Hence the Petition is rejected.

(R.M. SAVANT, J.) (F.I. REBELLO, J.)